



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

November 4, 2004

**REGISTERED MAIL**  
**RB 252 878 409 US**

Erickson Enterprises  
7925 NE St. Johns Road  
Vancouver, WA 98665

Attn: Mr. Robert Erickson

RE: Water Quality Certification Order Number 1711 for Corps Nationwide Permit 39, Residential, Commercial and Institutional Developments, Corps Reference Number 200400267 to construct Minnehaha Business Park in a depressional wetland near Cold Creek Ditch, near Vancouver, Clark County, Washington

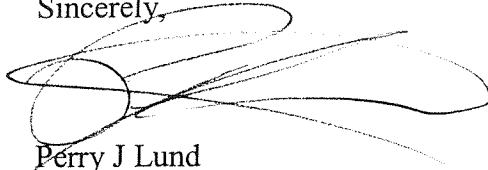
Dear Mr. Erickson:

The Nationwide Permit 39 issued by the U.S. Army Corps of Engineers on July 7, 2004 for proposed work in a depressional wetland within the Burnt Bridge Creek drainage, Clark County, Washington has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps Nationwide Permit complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

- The Department of Ecology hereby rescinds Order No. DE 03SEASR-5425 dated May 20, 2003 issued to Mr. Robert A. Erickson, Erickson Enterprises, L.L.C. for the above referenced project based on new information brought forth in a letter from the U.S. Army Corps of Engineers dated February 24, 2004, Reference Number 200300226.
- This project is now authorized under Order No. 1711 pursuant to issuance of U.S. Army Corps of Engineers letter to Robert Erickson, Erickson Enterprises, L.L.C. dated July 7, 2004, Corps Reference Number 200400267.
- This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Lori Ochoa at (360) 407-7391. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", with a large, stylized flourish extending to the right.

Perry J Lund  
Unit Supervisor  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

PJL:LO:dn  
Enclosure

cc: Mr. Ron Klump, U.S. Army Corps of Engineers  
Lori Ochoa, Ecology, SWRO  
Lisa Renan WDFW, Region 5  
Dave Scott, City of Vancouver

**IN THE MATTER OF GRANTING ) ORDER #1711**  
**A WATER QUALITY ) (Corps No. 200400267)**  
**CERTIFICATION TO ) Construct Minnehaha Business Park in a depressional**  
**Mr. Robert Erickson, Erickson ) wetland near Cold Creek Ditch, near Vancouver Clark**  
**Enterprises, L.L.C. ) County, Washington**  
in accordance with 33 U.S.C. 1341 )  
FWPCA § 401, RCW 90.48.260, )  
RCW 90.48.120 and WAC 173-201A )

TO: Erickson Enterprises, L.L.C.  
7925 NE St. Johns Road  
Vancouver, WA 98665

ATTN: Mr. Robert Erickson

On September 24, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project is to construct a small business park consisting of installation of four concrete tilt-up and two pre-manufactured metal warehouse/distribution/office buildings (for a total building area of 166,300 sq. ft.) and construction of associated parking area. The site is located North of Minnehaha Street, at approximately 47<sup>th</sup> avenue (approximately 0.5 miles east of St. Johns Road) near Vancouver at Section 12, Township 2 North, Range 1 East, and Section 7, Township 2 North, Range 2 East, Willamette Meridian in Clark County, Washington.

#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCE 90.48.120 and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and,
3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

#### **WATER QUALITY CERTIFICATION CONDITIONS:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to Mr. Robert Erickson, Erickson Enterprises, L.L.C. subject to the following conditions:

- A. **No Further Impairment of Existing Water Quality**
- B. **Timing:**

B1. This Order is valid until all compliance requirements in this document have been met.

**C. Notification Conditions:**

- C1. Mr. Robert Erickson, Erickson Enterprises, L.L.C shall notify Ecology's Southwest Regional Office Federal Permit Manager (Lori Ochoa) at (360) 407-7391, Fax (360) 407-6305, E-mail [loch461@ecy.wa.gov](mailto:loch461@ecy.wa.gov), or mail P.O. Box 47775, Olympia, WA 98504-7775) at least fourteen (14) days prior to the starting work.
- C2. Mr. Robert Erickson, Erickson Enterprises, L.L.C shall notify Ecology's Southwest Regional Office Federal Permit Manager within fourteen (14) days after completion of construction.
- C3. Mr. Robert Erickson, Erickson Enterprises, L.L.C shall ensure that all appropriate project engineers and contractors at the project and mitigation sites shall have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment #A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology no less than seven (7) days before construction begins at the project site.

**NOTE:** These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

**D. Construction Conditions**

- D1. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.
- D2. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
- D3. Erosion control devices (e.g., hay bales, detention areas, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained through construction.
- D4. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in good working condition. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
- D5. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
- D6. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
- D7. At the completion of construction, hydroseeding may be done to stabilize slopes and soils until other required planting is completed. Hydroseed mix shall consist of native, non-invasive, or annual plant species only.

- D8. The applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC) 30 days prior to beginning construction.
- a) These plans shall include:
- Name and phone number of person responsible for implementing the plans
  - Best management practices that will be implemented
  - Frequency of BMP inspections
  - Contingency plan in the event of adverse weather conditions or other foreseeable undesirable conditions
- b) These plans shall be submitted to the Lori Ochoa, Federal Permit Manager, Department of Ecology, SWRO, PO Box 47775, Olympia, WA 98504-7775 at least 15 days before beginning construction.
- D9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES or state waste discharge permit.

**E. Mitigation**

- E1. Project mitigation shall be constructed and maintained as described in the Wetland Mitigation Plan, Minnehaha Business Park, Clark County, Washington dated January 2001, Revised March 2003.
- E2. The property owner shall grant Ecology access to the mitigation areas for inspection during the 10 year monitoring period or until mitigation success has been achieved.
- E3. Prior to implementing any contingency measures, applicant will consult with permitting agencies.
- E4. Contingency measures and additional monitoring of the mitigation may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
- E5. Any changes to the mitigation plan or monitoring requirements must be approved by Ecology before they are incorporated into the plan or implemented on the ground.

**F. Reporting Conditions**

- F1. A detailed "as built" report shall be prepared after construction showing any variances from the final mitigation plan. The "as-built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
- comments from a wetland specialist present on site during mitigation construction;
  - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
  - photographs of the area taken from permanent photo points which will be designated on the site plan;
  - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
  - an analysis of any changes to the mitigation plan that occurred during construction.

- F2. Mitigation monitoring reports shall be submitted as described in the Wetland Mitigation Plan for Minnehaha Business Park, Clark County, Washington dated January 2001, revised March 2003.

**G. Emergency/Contingency Measures:**

- G1. Any in-water work that is out of compliance with the provisions of this Order, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
- G1a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - G1b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Federal Permit Coordinator at (360) 407-7391.
  - G1c. Submit a written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve Erickson Enterprises, LLC from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- G2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
- G3. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

**H. General Conditions:**

- H1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources **except** as specifically provided for in conditions of this Order.
- H2. This Order does not exempt Erickson Enterprises, LLC from, and is conditioned upon compliance with, other statutes and codes administered by federal, state, and local agencies.
- H3. Erickson Enterprises, LLC shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
- H4. Erickson Enterprises, LLC shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

- H5. Erickson Enterprises, LLC shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- H6. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Erickson Enterprises, LLC, and state agency personnel.
- H7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- H8. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by this Order may obtain review thereof by appeal. Mr. Robert Erickson, Erickson Enterprises, L.L.C can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the postmarked date of the permit. The appeal must be sent to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 4 NOVEMBER 2004 at Lacey, Washington



Perry J. Lund, Unit Supervisor  
Shorelands and Environmental Assistance Program  
Department of Ecology – Southwest Regional Office

Attachment # A  
Water Quality Certification  
Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for APPLICANT, in repairs to an existing, unused industrial dock in Port Angeles Harbor on the Strait of Juan de Fuca. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #1181 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company



*Water Quality Certification*  
*November 4, 2004*  
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bcc: Penny Keys, Ecology HQ  
Kim VanZwahlenberg, Ecology, SWRO, SEA  
Brad Murphy, Ecology, SWRO, SEA  
Deborah Cornett, Ecology, SWRO, WQ

